



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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Gloriann Moroney
Chair

DECISION

IN THE MATTER OF

DAVID JOSSELYN

W64229

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: January 8, 2019

DATE OF DECISION: September 3, 2019

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa¹

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of offense, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in five years from the date of the hearing.

I. STATEMENT OF THE CASE

On October 26, 1998, in Middlesex County Superior Court, a jury convicted David Josselyn of two counts of armed robbery, for which he received two life sentences with the possibility of parole. He also received a 20 year concurrent sentence for the charge of armed assault to rob and a 2 to 3 year concurrent sentence for possession of a firearm. The charge of discharging a firearm was filed. Mr. Josselyn filed a motion for new trial, but it was denied.²

On September 22, 1996, in the late morning hours, 37-year-old David Josselyn attempted to rob the Osco Drug store on Carlisle Road in Westford. He entered the store, placed a candy bar on the counter, and paid for it. When the cashier opened the register, Mr.

¹ Chair Moroney abstained from the vote, as she was not a Board Member at the time of the hearing.

² *Commonwealth v. David Josselyn*, (56 Mass.App.Ct. 1101 (2002); 439 Mass.App.Ct. 1102 (2003); 89 Mass.App.Ct. 1128 (2016))

Josselyn pulled out a .22 caliber mini revolver, demanded money, and reached into the register. The cashier panicked and closed the register. Mr. Josselyn was not able to take any money, and he fled the area.

A short time after the incident in Westford, Mr. Josselyn entered the Sunoco gas station/food mart on Chelmsford Street in Chelmsford. Upon entering, he demanded money, pulled out the .22 caliber gun, and fired a shot between the two clerks. After firing the shot, he said, "Empty the tray, the next one is for real." One of the clerks placed the money tray from the register on the counter. Mr. Josselyn reached into the tray and took over \$100 in cash.

Shortly after the robbery in Chelmsford, Mr. Josselyn entered Home Depot in Tewksbury. He placed a plexiglass cutter on the counter. When the cashier opened the register, he pulled out the gun and said, "Don't say anything until I leave." Mr. Josselyn reached into the register and took over \$900 in cash. The cashier alerted a co-worker to the robbery. The co-worker followed him into the parking lot and watched him run across the lot to a white Chrysler LeBaron. Each of these three incidents took place within a 90 minute time frame. After an investigation, Mr. Josselyn was arrested the next day.

II. PAROLE HEARING ON JANUARY 8, 2019

David Josselyn, now 60-years-old, appeared before the Parole Board on January 8, 2019, for an initial hearing. He was not represented by counsel. In Mr. Josselyn's opening statement to the Board, he said that he would like to "leave a more positive mark on the world, than [he has] in the past" and added that he would "like that chance." He stated that he has served approximately 22 years on this sentence. However, when Board Members questioned Mr. Josselyn as to his lack of programming, he admitted that he hasn't completed any rehabilitative programs during his incarceration. Mr. Josselyn claims that he has observed various programs, but the programs seem like a "farce" to him. He was adamant for the Board to note, however, that he keeps up with the field of electronics, stating that it is the only thing he considers "meaningful."

When the Board questioned him as to his history of criminal activities, Mr. Josselyn attributed his crimes to his "impulsive behavior." He described himself as an "unmanageable" youth, adding that he went to school until the 10th grade and did not do well. After he left school, Mr. Josselyn stated that he was consistently in trouble as a juvenile. When the Board questioned Mr. Josselyn as to why he gravitated toward crime so quickly, he responded, "Not sure, the excitement." When asked how many individuals he has victimized over the years, Mr. Josselyn's response was "25, 30" people.

The Board noted that Mr. Josselyn has 58 disciplinary reports, 18 of which are drug related. Mr. Josselyn explained that he was recently diagnosed with fibromyalgia and was using anything he could find to kill the pain. He added that he recently started a new medication, but admitted to recent non-prescribed Suboxone use, as well. Mr. Josselyn told the Board that he works in the facility delivering the canteen, which he started about a month ago. He also repairs items for other inmates. He added that his longest employment while incarcerated was a year and a half. Mr. Josselyn told the Board that he is certified in circuit design and advance digital electronics. He stated that he obtains certificates from the organization "Feed the

Children" for his monetary donations. When asked about his parole plan, he explained that he would like to live with his brother, obtain employment, and volunteer his time.

The Board considered oral testimony in support of parole from Mr. Josselyn's brother. The Board also considered testimony in opposition to parole from Middlesex County Assistant District Attorney Whitney Williams.

III. DECISION

The Board is of the opinion that Mr. Josselyn has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Josselyn has served 22 years. During this commitment, he has yet to invest in his rehabilitation. In addition, he should engage in treatment/programming to address his causative factors.

The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. In forming this opinion, the Board has taken into consideration Mr. Josselyn's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board has also considered a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Josselyn's risk of recidivism. After applying this standard to the circumstances of Mr. Josselyn's case, the Board is of the unanimous opinion that David Josselyn is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Josselyn's next appearance before the Board will take place in five years from the date of this hearing. During the interim, the Board encourages Mr. Josselyn to continue working towards his full rehabilitation.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.



Pamela Murphy, General Counsel

9/3/2019

Date